

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MAURICE CALDWELL,
Plaintiff,

v.

CITY OF SAN FRANCISCO, et al.,
Defendants.

Case No. 12-cv-01892-EDL

ORDER

Re: Dkt. No. 161

On August 21, 2015, Defendants filed a motion to compel production of documents and deposition testimony from attorney Paige Kaneb. As stated at the September 29, 2015 hearing, work product protection and attorney-client privilege is waived as to the specific subject matters discussed in declarations by Ms. Kaneb filed in support of Plaintiff's petition for compensation pursuant to California Penal Code section 4900 and Plaintiff's request for a finding of innocence pursuant to California Penal Code section 1485.55. The Parties are ordered to meet and confer on these topics as discussed at the hearing. If any disputes remain, the Parties are ordered to file a joint letter of no more than eight pages by October 8, 2015.

At the hearing, Plaintiff argued that attorney-client privilege was not waived as to Ms. Kaneb's August 11, 2010 declaration because it was only filed in support of Plaintiff's habeas corpus petition. See Cal. Evid. Code § 958 ("[t]here is no privilege under this article as to a communication relevant to an issue of breach, by the lawyer or by the client, of a duty arising out of the lawyer-client relationship."); Dkt. 121 at 4-5 (explaining that this provision "creates a narrow exception to the attorney-client privilege, rather than a waiver, in cases where [it] applies, such as habeas proceedings involving ineffective assistance of counsel claims"). However, the Parties did not address the extent to which the exception created by section 958 extends to communications involving attorneys other than the allegedly ineffective attorney (e.g., Paige Kaneb and Donald

Bergerson). Accordingly, the Parties are ordered to file a joint letter of no more than eight pages addressing this issue by October 6, 2015.

IT IS SO ORDERED.

Dated: September 30, 2015


ELIZABETH D. LAPORTE
United States Magistrate Judge

United States District Court
Northern District of California